

AMENDED IN ASSEMBLY APRIL 28, 1998
AMENDED IN ASSEMBLY MARCH 12, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1662

Introduced by Assembly Member Alquist

January 12, 1998

An act to add Article 5 (commencing with Section 79160) to Chapter 9 of Part 48 of the Education Code, and to add and repeal Sections 17059.2, 17059.4, 17059.6, 23659.2, 23659.4, and 23659.6 of the Revenue and Taxation Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1662, as amended, Alquist. Postsecondary education: income and bank and corporation tax credits.

(1) Under existing law, the Board of Governors of the California Community Colleges is created to administer and supervise the statewide system of community colleges known as the California Community Colleges.

This bill would express a legislative finding and declaration that *the mission of a community college education should be geared toward is to advance California's economic growth and global competitiveness, and that a comprehensive community college education should reflect the job needs of skills required by developing and cutting-edge technologies and industries, as specified.* The bill would express legislative intent that the Legislature develop a public-private

partnership between community colleges and California businesses in order to promote economic development,~~—as specified.~~

This bill would authorize a community college district to contract with an employer to offer a worksite course at a location or locations determined under the contract without any requirement that this course be publicized or open to enrollment or attendance by persons other than those authorized by the contract.

(2) The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would authorize credits against those taxes for each taxable and income year beginning on or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~ 2003, in amounts equal to the following:

(a) Ten percent of the first \$100,000 of the qualified costs and 20% of the remaining qualified costs, not to exceed \$1,000,000 per year, paid or incurred by a taxpayer for qualified property,~~—as specified,~~ donated to a community college.

(b) Ten percent of the first \$500,000 of the qualified costs and 20% of the remaining qualified costs, not to exceed \$2,000,000 per year, paid or incurred by a taxpayer for the modification of a qualified facility used for a qualified purpose,~~as specified,~~ and donated to a community college.

(c) Ten percent of the first \$50,000 of the amount and 20% of the remaining amount, up to \$200,000 per year, contributed by a qualified taxpayer for the maintenance and upkeep of a qualified facility used by the students of a community college,~~as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section
2 79160) is added to Chapter 9 of Part 48 of the Education
3 Code, to read:
4

Article 5. Public-Private Partnership

79160. (a) The Legislature finds and declares that ~~community college education should be geared toward~~ because a primary mission of the California Community College system is to advance California's economic growth and global competitiveness through education, training, and services that contribute to continuous work force improvement, aspects of a comprehensive community college education should reflect the job ~~needs of~~ skills required by developing and cutting-edge technologies and industries, including, but not necessarily limited to, biotech technologies, telecommunications, information technologies, entertainment, advanced transportation technologies, and others, including those industries listed in paragraph (3) of subdivision (a) of Section 15379.21 of the Government Code and other industries not yet recognized as playing a major role in California's economic future.

(b) It is therefore the intent of the Legislature to develop a public-private partnership between community colleges and California businesses to better prepare for the changing demands of California industries and the California economy of the 21st century.

(c) *It is the intent of the Legislature that modified facilities which are eligible for a credit pursuant to Section 17059.4 or maintained facilities which are eligible for a credit pursuant to Section 17059.6 be accessible to community college students of the college that owns the facilities. It is the intent of the Legislature that these facilities not be used exclusively as contract worksite training locations as described in Section 79161.*

(d) *It is also the intent of the Legislature that qualified property for which credits are given under Section 17059.2 shall be accessible to community college students of the college that owns the facilities. It is the intent of the Legislature that this property not be used exclusively in contract worksite training courses as described in Section 79161.*

1 79161. A community college district may contract
2 with an employer to offer a worksite course at a location
3 or locations determined in the contract. A community
4 college district that offers a course pursuant to this section
5 shall not be required to provide notice to the public that
6 the class is being offered, and shall not be required to
7 allow enrollment in, or attendance at, the course to
8 persons other than those persons authorized to attend
9 under the contract.

10 SEC. 2. Section 17059.2 is added to the Revenue and
11 Taxation Code, to read:

12 17059.2. (a) (1) For each taxable year beginning on
13 or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~
14 2003, there shall be allowed as a credit against the “net
15 tax,” as defined in Section 17039, an amount determined
16 in this subdivision for the qualified costs paid or incurred
17 by a taxpayer for qualified property donated to a
18 community college created by Section 70900 of the
19 Education Code.

20 (2) The credit amount shall be 10 percent of the first
21 one hundred thousand dollars (\$100,000) of qualified
22 costs paid or incurred and 20 percent of the remaining
23 qualified costs.

24 (3) The amount of costs that shall be taken into
25 account for purposes of computing the credit allowed by
26 this section shall not exceed one million dollars
27 (\$1,000,000) for the taxable year.

28 (4) The credit allowed by this section shall be claimed
29 on the return for the taxable year in which the qualified
30 property is donated to the community college.

31 (b) For purposes of this section, “qualified property”
32 means property that is all of the following:

33 (1) Tangible personal property that is defined in
34 Section 1245(a)(3)(A) of the Internal Revenue Code.

35 (2) Property that is considered “state of the art
36 equipment.” For purposes of this section, “state of the art
37 equipment” means equipment that is at least as
38 technologically advanced as equipment that is commonly
39 utilized by the industry that most commonly has a use for
40 that equipment.

(c) For purposes of this section, “qualified costs” can be either of the following:

(1) In the case of property that has been purchased for donation, the purchase price plus any sales or use tax paid or incurred under Part 1 (commencing with Section 6001) of Division 2.

(2) In the case of property that has been constructed by the taxpayer, an aggregate of the following:

(A) Cost of materials.

(B) Direct labor costs allocable to the qualified property under Section 263A of the Internal Revenue Code.

(C) Indirect costs that are allocated to the qualified property under Section 263A of the Internal Revenue Code.

(d) The community college shall provide to the taxpayer documentation that the donation of qualified property has been accepted and that the qualified property constitutes “state of the art equipment.”

(e) Any deduction otherwise allowed under this part for any qualified costs paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.

(f) If the taxpayer is allowed a credit for qualified costs pursuant to this section, only one credit shall be allowed under this part with respect to those qualified costs.

(g) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next seven taxable years or until the credit is exhausted, whichever occurs first.

(h) This section shall remain in effect only until December 1, ~~2002~~ 2003, and as of that date is repealed.

SEC. 3. Section 17059.4 is added to the Revenue and Taxation Code, to read:

17059.4. (a) (1) For each taxable year beginning on or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~ 2003, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount determined in this subdivision for the qualified costs paid or incurred by a taxpayer for the modification of a qualified facility

1 used for the qualified purpose and donated to a
2 community college created by Section 70900 of the
3 Education Code.

4 (2) The credit amount shall be 10 percent of the first
5 five hundred thousand dollars (\$500,000) of qualified
6 costs paid or incurred and 20 percent of the remaining
7 qualified costs.

8 (3) The amount of costs that shall be taken into
9 account for purposes of computing the credit allowed by
10 this section shall not exceed two million dollars
11 (\$2,000,000) per facility.

12 (4) The credit allowed by this section shall be claimed
13 on the return for the taxable year in which the ~~qualified~~
14 ~~facility is placed in service by the community college~~
15 *modification of the facility is complete.*

16 (b) For purposes of this section, the “qualified
17 purpose” means furthering the students’ education and
18 preparing the students to be productive in the work
19 environment by providing a specialized work setting that
20 replicates work conditions the students may reasonably
21 expect to face during their careers.

22 (c) For purposes of this section, “qualified facility”
23 means a facility that is all of the following:

24 (1) Approved by the designated representatives of the
25 community college throughout modification.

26 (2) Located either on the grounds of the community
27 college or on land in California owned by the community
28 college.

29 (3) Modified for the qualified purpose. A facility is
30 modified for the qualified purpose provided it is not
31 economically feasible to use the facility for a different
32 purpose.

33 (4) (A) Used exclusively for the qualified purpose.
34 Incidental use of a facility for nonqualified purposes does
35 not preclude the facility from qualifying for this credit.
36 “Incidental use” means a use that is both related and
37 subordinate to the qualified purpose. It will be
38 conclusively presumed that a use is not subordinate if
39 more than one-third of the total usable volume of the
40 facility is devoted to a use that is not a qualified purpose.

(B) In the event an entire facility is not a qualified facility, a taxpayer may establish that a portion of a facility, and the foundation immediately underlying the portion, qualifies for treatment as a qualified facility if the portion satisfies all of the definitions in this subdivision.

(d) For purposes of this section, “qualified costs” are any costs allocated to the facility for modification under Section 263A of the Internal Revenue Code that meet the qualified purpose described in subdivision (b).

(e) The community college shall designate representatives to do all of the following:

(1) Consult with the taxpayer on the design of the facility.

(2) Oversee the modification of the facility.

(3) After completion of the facility, provide to the taxpayer documentation that the facility has been placed in service by the community college.

(f) The taxpayer shall consult with the designated representatives of the community college on the modification of the facility.

(g) Any deduction otherwise allowed under this part for any qualified costs paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.

(h) If the taxpayer is allowed a credit for qualified costs pursuant to this section, only one credit shall be allowed under this part with respect to those qualified costs.

(i) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next seven taxable years or until the credit is exhausted, whichever occurs first.

(j) This section shall remain in effect only until December 1, ~~2002~~ 2003, and as of that date is repealed.

SEC. 4. Section 17059.6 is added to the Revenue and Taxation Code, to read:

17059.6. (a) (1) For each taxable year beginning on or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~ 2003, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount determined in this subdivision for the amount contributed during the

1 taxable year by a qualified taxpayer for the maintenance
2 and upkeep of a qualified facility used by the students of
3 a community college created by Section 70900 of the
4 Education Code.

5 (2) The credit amount shall be 10 percent of the first
6 fifty thousand dollars (\$50,000) of the amount
7 contributed and 20 percent of the remaining amount
8 contributed.

9 (3) The amount that shall be taken into account for
10 purposes of computing the credit allowed by this section
11 shall not exceed two hundred thousand dollars (\$200,000)
12 for the taxable year.

13 (b) For purposes of this section, “qualified taxpayer”
14 means any taxpayer that is eligible for and has claimed the
15 credit allowed under Section ~~17059.2~~ 17059.4.

16 (c) For purposes of this section, “qualified facility”
17 means any facility that meets both of the following
18 conditions:

19 (1) A facility for which the qualified taxpayer has
20 claimed the credit allowed under Section ~~17059.2~~ 17059.4.

21 (2) A facility that is used during the taxable year by the
22 students of a community college for the qualified purpose
23 expressed in subdivision (b) of Section ~~17059.2~~ 17059.4.

24 (d) For purposes of this section, the credit shall be
25 based on any amount that is contributed by the qualified
26 taxpayer to pay for the maintenance and upkeep of the
27 facility so that it continues to satisfy its qualified purpose.
28 This amount includes any fees paid to service technicians
29 to cover costs for labor and parts attributable to the
30 necessary repairs for any specialized equipment located
31 in the facility.

32 (e) The community college shall provide to the
33 qualified taxpayer documentation that regular
34 maintenance and upkeep, including servicing for
35 specialized equipment, has been performed on the
36 facility and that the amount contributed does not exceed
37 these costs.

38 (f) Any deduction otherwise allowed under this part
39 for any amount contributed by the qualified taxpayer

1 upon which the credit is based shall be reduced by the
2 amount of the credit allowed under this section.

3 (g) If the qualified taxpayer is allowed a credit for an
4 amount contributed pursuant to this section, only one
5 credit shall be allowed under this part with respect to that
6 contributed amount.

7 (h) In the case where the credit allowed by this section
8 exceeds the “net tax,” the excess may be carried over to
9 reduce the “net tax” for the next seven taxable years or
10 until the credit is exhausted, whichever occurs first.

11 (i) This section shall remain in effect only until
12 December 1, ~~2002~~ 2003, and as of that date is repealed.

13 SEC. 5. Section 23659.2 is added to the Revenue and
14 Taxation Code, to read:

15 23659.2. (a) (1) For each income year beginning on
16 or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~
17 2003, there shall be allowed as a credit against the “tax,”
18 as defined in Section 23036, an amount determined in this
19 subdivision for the qualified costs paid or incurred by a
20 taxpayer for qualified property donated to a community
21 college created by Section 70900 of the Education Code.

22 (2) The credit amount shall be 10 percent of the first
23 one hundred thousand dollars (\$100,000) of qualified
24 costs paid or incurred and 20 percent of the remaining
25 qualified costs.

26 (3) The amount of costs that shall be taken into
27 account for purposes of computing the credit allowed by
28 this section shall not exceed one million dollars
29 (\$1,000,000) for the income year.

30 (4) The credit allowed by this section shall be claimed
31 on the return for the income year in which the qualified
32 property is donated to the community college.

33 (b) For purposes of this section, “qualified property”
34 means property that is all of the following:

35 (1) Tangible personal property that is defined in
36 Section 1245(a)(3)(A) of the Internal Revenue Code.

37 (2) Property that is considered “state of the art
38 equipment.” For purposes of this section, “state of the art
39 equipment” means equipment that is at least as
40 technologically advanced as equipment that is commonly

1 utilized by the industry that most commonly has a use for
2 that equipment.

3 (c) For purposes of this section, “qualified costs” can
4 be either of the following:

5 (1) In the case of property that has been purchased for
6 donation, the purchase price plus any sales or use tax paid
7 or incurred under Part 1 (commencing with Section
8 6001) of Division 2.

9 (2) In the case of property that has been constructed
10 by the taxpayer, an aggregate of the following:

11 (A) Cost of materials.

12 (B) Direct labor costs allocable to the qualified
13 property under Section 263A of the Internal Revenue
14 Code.

15 (C) Indirect costs that are allocated to the qualified
16 property under Section 263A of the Internal Revenue
17 Code.

18 (d) The community college shall provide to the
19 taxpayer documentation that the donation of qualified
20 property has been accepted and that the qualified
21 property constitutes ~~state~~ “state of the art” equipment.

22 (e) Any deduction otherwise allowed under this part
23 for any qualified costs paid or incurred by the taxpayer
24 upon which the credit is based shall be reduced by the
25 amount of the credit allowed under this section.

26 (f) If the taxpayer is allowed a credit for qualified costs
27 pursuant to this section, only one credit shall be allowed
28 under this part with respect to those qualified costs.

29 (g) In the case where the credit allowed by this section
30 exceeds the “tax,” the excess may be carried over to
31 reduce the “tax” for the next seven income years or until
32 the credit is exhausted, whichever occurs first.

33 (h) This section shall remain in effect only until
34 December 1, ~~2002~~ 2003, and as of that date is repealed.

35 SEC. 6. Section 23659.4 is added to the Revenue and
36 Taxation Code, to read:

37 23659.4. (a) (1) For each income year beginning on
38 or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~
39 2003, there shall be allowed as a credit against the “tax,”
40 as defined in Section 23036, an amount determined in this

1 subdivision for the qualified costs paid or incurred by a
2 taxpayer for the modification of a qualified facility used
3 for the qualified purpose and donated to a community
4 college created by Section 70900 of the Education Code.

5 (2) The credit amount shall be 10 percent of the first
6 five hundred thousand dollars (\$500,000) of qualified
7 costs paid or incurred and 20 percent of the remaining
8 qualified costs.

9 (3) The amount of costs that shall be taken into
10 account for purposes of computing the credit allowed by
11 this section shall not exceed two million dollars
12 (\$2,000,000) per facility.

13 (4) The credit allowed by this section shall be claimed
14 on the return for the income year in which the ~~qualified~~
15 ~~facility is placed in service by the community college~~
16 *modification of the facility is complete.*

17 (b) For purposes of this section, the “qualified
18 purpose” means furthering the students’ education and
19 preparing the students to be productive in the work
20 environment by providing a specialized work setting that
21 replicates work conditions the students may reasonably
22 expect to face during their careers.

23 (c) For purposes of this section, “qualified facility”
24 means a facility that is all of the following:

25 (1) Approved by the designated representatives of the
26 community college throughout modification.

27 (2) Located either on the grounds of the community
28 college or on land in California owned by the community
29 college.

30 (3) Modified for the qualified purpose. A facility is
31 modified for the qualified purpose provided it is not
32 economically feasible to use the facility for a different
33 purpose.

34 (4) (A) Used exclusively for the qualified purpose.
35 Incidental use of a facility for nonqualified purposes does
36 not preclude the facility from qualifying for this credit.
37 “Incidental use” means a use that is both related and
38 subordinate to the qualified purpose. It will be
39 conclusively presumed that a use is not subordinate if

1 more than one-third of the total usable volume of the
2 facility is devoted to a use that is not a qualified purpose.

3 (B) In the event an entire facility is not a qualified
4 facility, a taxpayer may establish that a portion of a
5 facility, and the foundation immediately underlying the
6 portion, qualifies for treatment as a qualified facility if the
7 portion satisfies all of the definitions in this subdivision.

8 (d) For purposes of this section, “qualified costs” are
9 any costs allocated to the facility for modification under
10 Section 263A of the Internal Revenue Code that meet the
11 qualified purpose described in subdivision (b).

12 (e) The community college shall designate
13 representatives to do all of the following:

14 (1) Consult with the taxpayer on the design of the
15 facility.

16 (2) Oversee the modification of the facility.

17 (3) After completion of the facility, provide to the
18 taxpayer documentation that the facility has been placed
19 in service by the community college.

20 (f) The taxpayer shall consult with the designated
21 representatives of the community college on the
22 modification of the facility.

23 (g) Any deduction otherwise allowed under this part
24 for any qualified costs paid or incurred by the taxpayer
25 upon which the credit is based shall be reduced by the
26 amount of the credit allowed under this section.

27 (h) If the taxpayer is allowed a credit for qualified costs
28 pursuant to this section, only one credit shall be allowed
29 under this part with respect to those qualified costs.

30 (i) In the case where the credit allowed by this section
31 exceeds the “tax,” the excess may be carried over to
32 reduce the “tax” for the next seven income years or until
33 the credit is exhausted, whichever occurs first.

34 (j) This section shall remain in effect only until
35 December 1, ~~2002~~ 2003, and as of that date is repealed.

36 SEC. 7. Section 23659.6 is added to the Revenue and
37 Taxation Code, to read:

38 23659.6. (a) (1) For each income year beginning on
39 or after January 1, ~~1998~~ 1999, and before January 1, ~~2002~~
40 2003, there shall be allowed as a credit against the “tax,”

1 as defined in Section 23036, an amount determined in this
2 subdivision for the amount contributed during the
3 income year by a qualified taxpayer for the maintenance
4 and upkeep of a qualified facility used by the students of
5 a community college created by Section 70900 of the
6 Education Code.

7 (2) The credit amount shall be 10 percent of the first
8 fifty thousand dollars (\$50,000) of the amount
9 contributed and 20 percent of the remaining amount
10 contributed.

11 (3) The amount that shall be taken into account for
12 purposes of computing the credit allowed by this section
13 shall not exceed two hundred thousand dollars (\$200,000)
14 for the income year.

15 (b) For purposes of this section, “qualified taxpayer”
16 means any taxpayer that is eligible for and has claimed the
17 credit allowed under Section ~~23659.2~~ 23659.4.

18 (c) For purposes of this section, “qualified facility”
19 means any facility that meets both of the following
20 conditions:

21 (1) A facility for which the qualified taxpayer has
22 claimed the credit allowed under Section ~~23659.2~~ 23659.4.

23 (2) A facility that is used during the income year by the
24 students of a community college for the qualified purpose
25 expressed in subdivision (b) of Section ~~23659.2~~ 23659.4.

26 (d) For purposes of this section, the credit shall be
27 based on any amount that is contributed by the qualified
28 taxpayer to pay for the maintenance and upkeep of the
29 facility so that it continues to satisfy its qualified purpose.
30 This amount includes any fees paid to service technicians
31 to cover costs for labor and parts attributable to the
32 necessary repairs for any specialized equipment located
33 in the facility.

34 (e) The community college shall provide to the
35 qualified taxpayer documentation that regular
36 maintenance and upkeep, including servicing for
37 specialized equipment, has been performed on the
38 facility and that the amount contributed does not exceed
39 these costs.

1 (f) Any deduction otherwise allowed under this part
2 for any amounts contributed by the qualified taxpayer
3 upon which the credit is based shall be reduced by the
4 amount of the credit allowed under this section.

5 (g) If the qualified taxpayer is allowed a credit for an
6 amount contributed pursuant to this section, only one
7 credit shall be allowed under this part with respect to that
8 contributed amount.

9 (h) In the case where the credit allowed by this section
10 exceeds the “tax,” the excess may be carried over to
11 reduce the “tax” for the next seven income years or until
12 the credit is exhausted, whichever occurs first.

13 (i) This section shall remain in effect only until
14 December 1, ~~2002~~ 2003, and as of that date is repealed.

